



AUG 13 2004

Page 1 of 2

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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P.O. Box 1450  
Alexandria, Virginia 22313-1450  
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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|-----------------------|------------------------|
| 10/782,552         | 02/19/2004             | Harrison A. Ailey JR. | 010930.00131           |

22908  
BANNER & WITCOFF, LTD.  
TEN SOUTH WACKER DRIVE  
SUITE 3000  
CHICAGO, IL 60606

CONFIRMATION NO. 5145

## FORMALITIES LETTER



\*OC000000012603291\*

Date Mailed: 05/12/2004

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$130** for a Large Entity

- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

08/16/2004 FFANAI2 00000018 10782552

02 FC:1051 130.00 DA

**RECEIVED**

MAY 17 2004

**BANNER & WITCOFF  
DOCKETING DEPT.**

*A copy of this notice **MUST** be returned with the reply.*

DSL+

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

|   |                        |                   |
|---|------------------------|-------------------|
| <b>TRANSMITTAL<br/>FORM</b><br>(to be used for all correspondence after initial filing) | Application Number     | 10/782,552        |
|   | Filing Date            | February 19, 2004 |
|   | First Named Inventor   | Ailey             |
|   | Art Unit               | 3721              |
|   | Examiner Name          |                   |
| Total Number of Pages in This Submission  | Attorney Docket Number | 010930.00131      |

**ENCLOSURES (check all that apply)**

|  |  |  |         |   |   |  |
|--|--|--|---------|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input checked="" type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/Incomplete Application<br><input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s)<br>(please identify below):<br>Copies of declarations filed in parent case;<br>Copy of Notice to file missing part of non-provisional application |         |   |   |  |
| <table border="1"><tr><td>Remarks</td><td>Being filed via Express Mail No.: EV406109157US</td></tr><tr><td colspan="2">The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733.</td></tr></table>   |  |  | Remarks | Being filed via Express Mail No.: EV406109157US | The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733. |  |
| Remarks  | Being filed via Express Mail No.: EV406109157US  |  |         |   |   |  |
| The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733.  |  |  |         |   |   |  |

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

|                         |                 |
|-------------------------|-----------------|
| Firm or Individual name | Jon O. Nelson   |
| Signature               |                 |
| Date                    | August 12, 2004 |

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

|                       |  |      |  |
|-----------------------|--|------|--|
| Typed or printed name |  |      |  |
| Signature             |  | Date |  |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/17 (10-03)  
Approved for use through 07/31/2006. OMB 0651-0032  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 240

## Complete if Known

|                      |                   |
|----------------------|-------------------|
| Application Number   | 10/782,552        |
| Filing Date          | February 19, 2004 |
| First Named Inventor | Ailey             |
| Examiner Name        |                   |
| Art Unit             | 3721              |
| Attorney Docket No.  | 010930.00131      |

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None  
Order

☒ Deposit Account:

Deposit  
Account  
Number

19-0733

Deposit  
Account  
Name

Banner & Witcoff, LTD.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee  
to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity |          | Small Entity |          | Fee Description        | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |                        |          |
| 1001         | 770      | 2001         | 385      | Utility filing fee     |          |
| 1002         | 340      | 2002         | 170      | Design filing fee      |          |
| 1003         | 530      | 2003         | 265      | Plant filing fee       |          |
| 1004         | 770      | 2004         | 385      | Reissue filing fee     |          |
| 1005         | 160      | 2005         | 80       | Provisional filing fee |          |
| SUBTOTAL (1) |          |              |          |                        | (\$) 0   |

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

|                    | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| Total Claims       | 0            | 0              | 0        |
| Independent Claims | 0            | 0              | 0        |
| Multiple Dependent | 0            | 290            | 0        |

| Large Entity |          | Small Entity |          | Fee Description  |
|--------------|----------|--------------|----------|--|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |  |
| 1202         | 18       | 2202         | 9        | Claims in excess of 20                                     |
| 1201         | 86       | 2201         | 43       | Independent claims in excess of 3                          |
| 1203         | 290      | 2203         | 145      | Multiple dependent claim, if not paid                      |
| 1204         | 86       | 2204         | 43       | ** Reissue independent claims over original patent         |
| 1205         | 18       | 2205         | 9        | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$) 0

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

| Large Entity |          | Small Entity |          | Fee Description  | Fee Paid |
|--------------|----------|--------------|----------|--|----------|
| Fee Code     | Fee (\$) | Fee Code     | Fee (\$) |  |          |
| 1051         | 130      | 2051         | 65       | Surcharge - late filing fee or oath  | 130      |
| 1052         | 50       | 2052         | 25       | Surcharge - late provisional filing fee or cover sheet.                    |          |
| 1053         | 130      | 1053         | 130      | Non-English specification  |          |
| 1812         | 2,520    | 1812         | 2,520    | For filing a request for reexamination                                     |          |
| 1804         | 920*     | 1804         | 920*     | Requesting publication of SIR prior to Examiner action                     |          |
| 1805         | 1,840*   | 1805         | 1,840*   | Requesting publication of SIR after Examiner action                        |          |
| 1251         | 110      | 2251         | 55       | Extension for reply within first month                                     | 110      |
| 1252         | 420      | 2252         | 210      | Extension for reply within second month                                    |          |
| 1253         | 950      | 2253         | 475      | Extension for reply within third month                                     |          |
| 1254         | 1,480    | 2254         | 740      | Extension for reply within fourth month                                    |          |
| 1255         | 2,010    | 2255         | 1,005    | Extension for reply within fifth month                                     |          |
| 1401         | 330      | 2401         | 165      | Notice of Appeal   |          |
| 1402         | 330      | 2402         | 165      | Filing a brief in support of an appeal                                     |          |
| 1403         | 290      | 2403         | 145      | Request for oral hearing   |          |
| 1451         | 1,510    | 1451         | 1,510    | Petition to institute a public use proceeding                              |          |
| 1452         | 110      | 2452         | 55       | Petition to revive - unavoidable   |          |
| 1453         | 1,330    | 2453         | 665      | Petition to revive - unintentional   |          |
| 1501         | 1,330    | 2501         | 665      | Utility issue fee (or reissue)   |          |
| 1502         | 480      | 2502         | 240      | Design issue fee   |          |
| 1503         | 640      | 2503         | 320      | Plant issue fee  |          |
| 1460         | 130      | 1460         | 130      | Petitions to the Commissioner  |          |
| 1807         | 50       | 1807         | 50       | Processing fee under 37 CFR 1.17 (q)                                       |          |
| 1806         | 180      | 1806         | 180      | Submission of Information Disclosure Stmt                                  |          |
| 8021         | 40       | 8021         | 40       | Recording each patent assignment per property (times number of properties) |          |
| 1809         | 770      | 2809         | 385      | Filing a submission after final rejection (37 CFR § 1.129(a))              |          |
| 1810         | 770      | 2810         | 385      | For each additional invention to be examined (37 CFR § 1.129(b))           |          |
| 1801         | 770      | 2801         | 385      | Request for Continued Examination (RCE)                                    |          |
| 1802         | 900      | 1802         | 900      | Request for expedited examination of a design application                  |          |

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 240

## SUBMITTED BY

|                   |                      |                                   |                 |           |              |
|-------------------|----------------------|-----------------------------------|-----------------|-----------|--------------|
| Name (Print/Type) | Jon O. Nelson        | Registration No. (Attorney/Agent) | 24,566          | Telephone | 312-463-5000 |
| Signature         | <i>Jon O. Nelson</i> | Date                              | August 12, 2004 |           |              |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Customer No. 22908  
Application No. 10/782,552  
Response to Notice to File Missing Parts Mailed May 12, 2004

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
(Attorney Docket No. 010930.00131)

In re the Application of:

Ailey et al.

Serial No.: 10/782,552

Filed: February 19, 2004

For: Device For Defining A Handle In A  
Tubular Covering For A Food  
Product

Atty. Docket No.: 010930.00131

Group Art Unit: 3721

Examiner: TBA

Confirmation No.: 5145

**RESPONSE TO NOTICE TO FILE MISSING PARTS  
OF NONPROVISIONAL APPLICATION**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450


In response to the Notice to File Missing Parts of Nonprovisional Application mailed May 12, 2004, and in order to complete the filing formalities, applicants hereby submit the enclosed Declaration(s) that were filed in the parent case 10/339,910. A copy of the Notice is enclosed.

The Commissioner is authorized to debit the fee of \$130.00 to complete late oath/declaration surcharge from our Deposit Account No. 19-0733.

Respectfully submitted,

Banner & Witcoff, Ltd.

Dated: August 12, 2004

By:   
Jon O. Nelson  
Registration No. 24,566



## CERTIFICATE OF MAILING

Express Mail No. EV406109157US

Deposited: August 12, 2004

I hereby certify that the attached correspondence, identified below, is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: 

Application of: Ailey, et al.

Application No.: 10/782,552

Filing Date: February 19, 2004

Title: Device for Defining a Handle in a Tubular Covering for a Food Product

Transmitted herewith are the following documents:

- ☒ Fee Transmittal (1 page) in duplicate
- ☒ Transmittal (1 page) in duplicate
- ☒ Petition for 1 Month Extension of Time (1 page)
- ☒ Response to Notice to File Missing Parts Mailed May 12, 2004 (1 page)
- ☒ Copy of Declaration(s) filed in parent case (4 pages)
- ☒ Copy of Notice to File Missing Parts Mailed May 12, 2004 (2 pages)
- ☒ Return Postcard

Attorney Case No.: 010930.00131